

ADJOURNMENT

On motion of Senator Mauzy, the Senate at 11:12 o'clock a.m. adjourned until 11:00 o'clock a.m. Monday, January 14, 1985.

THIRD DAY

(Monday, January 14, 1985)

The Senate met at 11:00 o'clock a.m., pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Barrientos, Blake, Brooks, Brown, Caperton, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Krier, Leedom, Mauzy, McFarland, Montford, Parker, Sarpalius, Sharp, Traeger, Uribe, Washington, Whitmire, Williams.

Absent-excused: Edwards, Lyon, Parmer, Santiesteban, Sims, Truan.

A quorum was announced present.

Senator Ed Howard offered the invocation as follows:

Our Father, on this day as we begin anew, we look back and thank You for everything that You have given to us, particularly for life, liberty and for the opportunities that are ours. May we, as elected officials, look upon our responsibilities as a trust, and may we discharge them in that manner. We ask Thee to be with us in all that we do. May our minds and thoughts be upon those who are less fortunate than we, and that our actions and deeds be in accordance with Thy will. In Jesus' name, amen.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of Wednesday, January 9, 1985, was dispensed with and the Journal was approved.

LEAVES OF ABSENCE

Senator Santiesteban was granted leave of absence for today on account of inclement weather on motion of Senator Barrientos.

Senator Edwards was granted leave of absence for today on account of death in family on motion of Senator Caperton.

Senator Truan was granted leave of absence for today on account of inclement weather on motion of Senator Mauzy.

Senator Sims was granted leave of absence for today on account of inclement weather on motion of Senator Jones.

Senator Parmer was granted leave of absence for today on account of inclement weather on motion of Senator Mauzy.

Senator Lyon was granted leave of absence for today on account of important business on motion of Senator Mauzy.

RESOLUTION SIGNED

The President announced the signing in the presence of the Senate the following enrolled resolution:

S.C.R. 5

SENATE BILLS AND RESOLUTIONS ON FIRST READING

The following bills and resolutions were introduced, read first time and referred to the Committee indicated:

S.C.R. 6 by Jones Natural Resources
Urging Texas congressional delegation to pursue acceleration of research efforts of U.S. Environmental Protection Agency and U.S. Department of Agriculture relating to control and eradication of fire ants.

S.J.R. 6 by Farabee Criminal Justice
Proposing a constitutional amendment relating to the placement of state inmates in the penal or correctional facilities of other states.

S.B. 105 by Caperton, Farabee State Affairs
Relating to the provision, administration, and financing of programs of retirement and death benefits for state-paid judges and to the assignment of persons to sit as judicial officers; providing penalties.

S.B. 106 by Henderson, Brown, Intergovernmental Relations
Whitmire, Williams
Relating to local regulation of a business that sells alcoholic beverages and in which an employee engages in certain sexually oriented conduct.

S.B. 107 by Henderson Intergovernmental Relations
Relating to the authority of certain counties to regulate fireworks; providing a penalty.

S.B. 108 by Sarpalius Intergovernmental Relations
Relating to the disposition of the proceeds, and the interest on the proceeds, from the sale of a county hospital.

S.B. 109 by Sarpalius Economic Development
Relating to requirements for public liability insurance coverage for holders of certain certificates of registration; amending Article 5.43-1, Insurance Code, as amended, relating to regulation of persons and firms dealing with fire extinguisher systems, by adding a new Section 7A.

S.B. 110 by Sarpalius State Affairs
Relating to the term "intoxicated" as that term is used in defining the offense of driving while intoxicated and in the law governing the taking of blood or breath specimens.

S.B. 111 by Sarpalius State Affairs
Relating to the term "intoxicated" as that term is used in defining the offenses of driving while intoxicated and involuntary manslaughter involving the use of a motor vehicle, to the availability of pretrial diversion programs for persons charged with those offenses, and to the liability of certain persons who take blood samples used in the prosecution of those offenses.

S.B. 112 by Mauzy Jurisprudence
Relating to disciplinary measures against and conditions of employment of peace officers.

S.B. 113 by Jones Finance
Appropriating money for the support of the Judicial, Executive and Legislative Branches of the State Government, for the construction of State buildings, and for State aid to public junior colleges, for the period beginning September 1, 1985 and ending August 31, 1987; authorizing and prescribing conditions, limitations, rules

and procedures for allocating and expending the appropriated funds; and declaring an emergency.

S.B. 114 by Harris Economic Development
 Authorizing and limiting investments of Texas life, health or accident insurers;
 adding Article 3.33, Insurance Code of Texas; and declaring an emergency.

S.B. 115 by Sharp Health and Human Resources
Relating to the authority of the department of human resources to obtain criminal history information records from the Department of Public Safety, the Federal Bureau of Investigation identification division, or another law enforcement agency, and to the offense of unauthorized disclosure of criminal history information records; providing a penalty.

S.B. 116 by Brooks Natural Resources
Relating to requiring the Texas Coastal and Marine Council to submit annual reports to the governor and the legislature.

S.B. 117 by Traeger **Intergovernmental Relations**
 Relating to the jurisdiction of and the practice in the statutory probate courts in
 Bexar County.

S.B. 118 by Edwards Health and Human Resources
Relating to the continuation and operation of the Texas Rehabilitation Commission
and to the administration of developmental disability services.

S.B. 119 by Farabee Jurisprudence
Relating to consent to medical treatment for certain minors; amending the Family Code by adding Subdivision (7) to Section 35.01.

S.B. 120 by Farabee Criminal Justice
Relating to an extension of the jurisdiction of the Texas Youth Commission to a person under the age of 21; amending Subdivision (5) of Section 61.001 and Section 61.084 of the Human Resources Code and Subsection (b) of Section 54.05 of the Family Code.

S.B. 121 by Farabee Jurisprudence
Relating to judgments for support of children placed outside their homes; amending
Subsection (a) of Section 54.06 of the Family Code.

S.B. 122 by Farabee Criminal Justice
Including certain murders of two or more persons in the definition of capital murder; amending Subsection (a), Section 19.03, Penal Code, as amended.

S.B. 123 by Blake	Administration
Relating to the creation and maintenance on the grounds of the State Capitol a permanent flower bed depicting through appropriate design and flower selection the Texas flag; adding Article 6142c to the Revised Statutes.	

S.B. 124 by Harris Economic Development
Relating to the regulation and taxation of bingo games.

S.B. 125 by Farabee State Affairs
 Relating to the exemption from identification requirements of state-owned vehicles
 of the State Banking Department.

S.B. 126 by Farabee
Relating to adoption of the Interstate Corrections Compact.

S.B. 127 by Traeger Economic Development
Relating to the regulation of the practice of cosmetology.

S.B. 128 by Blake

Natural Resources

Relating to the continuation, duties, and operation of the office of Sabine River Compact Commissioners for Texas.

S.B. 129 by Sharp, McFarland,
Leedom, Harris, Sims

Intergovernmental Relations

Amending Title 5 of the Texas Penal Code, by adding a new Chapter 23, prohibiting certain abortions and related conduct, amending Chapter 4 of Title 28 of the Texas Revised Civil Statutes by adding a new Article 1015b prohibiting the performance of certain abortions in city or town hospitals; amending Chapter 5 of Title 71 of the Texas Revised Civil Statutes by adding a new Article 4494t prohibiting the performance of certain abortions in hospital districts, county or county-city/town hospitals; amending Section 32.003, Texas Human Resources Code, to define the term "medical assistance" as excluding care and services in connection with the performance of certain abortions and amending Texas Revised Civil Statutes Article 4512.7 to include the right not to perform pathological examination of abortion tissue.

S.B. 130 by Leedom

Intergovernmental Relations

Relating to the authority of commissioners courts to set the amounts of certain fees in counties having a population in excess of 1,500,000, but excluding any county with a city of more than 1,000,000 population.

S.B. 131 by Mauzy

Intergovernmental Relations

Relating to appointment of a master for certain district courts in Dallas County.

MESSAGE FROM SECRETARY OF STATE

The following Message from the Secretary of State was read and was referred to the Jurisprudence Committee:

**STATE OF TEXAS
OFFICE OF THE SECRETARY OF STATE
AUSTIN, TEXAS 78711**

January 7, 1985

Honorable William P. Hobby
Lieutenant Governor
State Capitol Building
Austin, Texas 78711

Dear Governor Hobby:

Please find enclosed copies of new and amended Rules of Civil Procedure, local rules of various courts and administrative judicial districts, Rules of Evidence, and Rules of Judicial Administration, as promulgated and adopted by the Supreme Court of Texas. In accordance with the provisions of Tex. Rev. Civ. Stat. Ann. art. 1731a, I hereby respectfully request that these documents be presented to the Regular Session of the 69th Legislature.

Thank you for your assistance.

Sincerely,

/s/Myra A. McDaniel
Secretary of State

SENATE CONCURRENT RESOLUTION 7

Senator Barrientos offered the following resolution:

BE IT RESOLVED by the 69th Legislature, Regular Session, That the Senate and House of Representatives of the State of Texas meet in joint session in the Hall of the House of Representatives at 12:00 noon Tuesday, January 15, 1985; and, be it further

RESOLVED, That His Excellency Mark Wells White, Governor of the State of Texas, be, and he is hereby, invited to address the Regular Session of the 69th Legislature in Joint Session at that time.

The resolution was read.

On motion of Senator Barrientos and by unanimous consent, the resolution was considered immediately and was adopted.

SENATE RESOLUTION 10

Senator Harris offered the following resolution:

WHEREAS, The birth of a healthy and handsome baby son made the recent holiday season an especially memorable time for our distinguished colleague, Senator Don Henderson, and his delighted wife, Marjorie; and

WHEREAS, Donald Lee, whose long-awaited arrival has brought much joy to the Henderson family, was born on December 26, 1984, at 5:04 p.m., at which time he weighed seven pounds, seven ounces, and measured 20 inches in length; and

WHEREAS, Blessed with a happy disposition and winning personality, this noteworthy new Texan has already won many new friends and is a source of tremendous pride to his devoted parents; and

WHEREAS, Donald faces a bright and promising future as a citizen of this great state, and the Texas Senate would like to take this opportunity to congratulate our fellow member, Don Henderson, and to extend best and warmest wishes to Marjorie Henderson; now, therefore, be it

RESOLVED, That the Senate of the 69th Legislature of the State of Texas hereby congratulate Senator and Mrs. Henderson on the birth of their son and officially proclaim Donald Lee Henderson as a new citizen of the Lone Star State; and, be it further

RESOLVED, That official copies of this resolution be prepared for Donald and his parents as tokens of esteem from all of the members of the Texas Senate.

The resolution was read and was adopted.

SENATE RESOLUTION 11

Senator Howard offered the following resolution:

WHEREAS, The opening week festivities of the Texas Legislature also herald the 37th birthday of the distinguished Senator from Randall County, the Honorable Bill Sarpalius; and

WHEREAS, Born January 10, 1948, Senator Sarpalius retains a youthful earnestness and enthusiasm that belies his 37 years; and

WHEREAS, An astute and savvy politician, Senator Sarpalius has been the floor leader for many major pieces of legislation; a strong force behind the passage of stiffer penalties of DWI offenses, Senator Sarpalius will again focus his attention on the correlation between drinking and automobile accidents; and

WHEREAS, Although his advocacy of raising the legal drinking age from 19 to 21 has little to do with his own advancing years, Senator Sarpalius will continue to be a voice of reason in all Senate deliberations during the 69th Legislature; and

WHEREAS, A devoted husband and father, Senator Sarpalius embodies traditional family and moral values in both his private and public lives; and

WHEREAS, It is a privilege and pleasure to honor our esteemed friend and colleague on his 37th birthday; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 69th Legislature, hereby extend a sincere happy birthday with many happy returns to Senator Bill Sarpalius; and, be it further

RESOLVED, That a copy of this Resolution be prepared for Senator Bill Sarpalius as an expression of friendship and personal regards from his fellow Senators on this auspicious occasion.

The resolution was read and was adopted.

SENATE RESOLUTION 12

Senator Brooks offered the following resolution:

S.R. 12, In memory of former Galveston Mayor Edward Schreiber.

The resolution was read and was adopted by a rising vote of the Members of the Senate.

On motion of Senator Williams and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

SENATE CONCURRENT RESOLUTION 8

Senator Caperton moved to suspend the regular order of business and all other necessary rules to take up for consideration at this time:

S.C.R. 8, Directing Texas Board of Corrections to undertake analysis of operational needs of Texas Department of Corrections.

CAPERTON
FARABEE

The resolution was read second time and was adopted by the following vote: Yeas 24, Nays 0, Present-not voting 1.

Yeas: Barrientos, Blake, Brooks, Brown, Caperton, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Krier, Leedom, Mauzy, McFarland, Montford, Parker, Sarpalius, Sharp, Traeger, Uribe, Whitmire, Williams.

Present-not voting: Washington.

Absent-excused: Edwards, Lyon, Parmer, Santiesteban, Sims, Truan.

SENATE RULE 103 SUSPENDED

On motion of Senator Blake and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Administration might consider **S.B. 123** at 4:00 o'clock p.m. today.

MEMORIAL RESOLUTIONS

S.R. 3 - By Howard: Memorial resolution for Tommie Douglas Benefield.

S.R. 13 - By Brooks: Memorial resolution for Mrs. Tommye Pearl Hill.

S.R. 14 - By Brooks: Memorial resolution for Reverend Moses Leonard Price.

ADJOURNMENT

On motion of Senator Brooks, the Senate at 11:45 o'clock a.m. adjourned in memory of Mayor Edward Schreiber until 11:00 o'clock a.m. tomorrow.

APPENDIX

Sent to Governor
(January 14, 1985)

S.C.R. 5

**In Memory
of
Marshall Formby**

Senator Sarpalius offered the following resolution:

(Senate Resolution 15)

WHEREAS, The entire State of Texas mourns the loss of a longtime broadcast executive, attorney, politician, and esteemed citizen with the death of Marshall Formby on December 27, 1984, at the age of 73; he dedicated years of his life to public service and will be sorely missed; and

WHEREAS, In his death Texans witnessed the close of the career of one whose footsteps marked service and progress on every path he chose to follow; former Dickens County Judge, State Senator from Lubbock County from 1941 until 1945, member and chairman of the state highway commission; member of the Texas Coordinating Board for Higher Education, Texas Tech University Regent from 1967 until 1973, and Democratic candidate for governor in 1962, Senator Formby had been associated with the Plainview law firm of LaFont, Tunnell, Formby, LaFont, and Hamilton since 1953; and

WHEREAS, Born April 12, 1911, in Como, Texas, and raised in McAdoo, Marshall Formby received a bachelor's degree in government in 1932 from Texas Tech University where he was editor of the student newspaper before earning a master's degree in journalism at The University of Texas at Austin; before pursuing a law degree from Baylor University he published newspapers in Plainview and Aspermont; and

WHEREAS, In addition to his tireless devotion to the people of the State of Texas, his term as state senator was interrupted by his service in World War II with the Army engineers in the European Theatre; and

WHEREAS, Marshall Formby was known and respected for his leadership qualities during his years as director for banks in Crosbyton and Petersburg, director of the Associated Press, and president-elect of the Associated Press national broadcasters group; he was also a member of the Central Plains Hospital Authority, a lifetime member of the Plainview YMCA board of directors, and a district governor of Rotary International, District 573; and

WHEREAS, Senator Formby was a deacon at the First Baptist Church of Plainview, where he taught a Sunday School class for many years; he was also a member of the board of the Public Relations Department of the Baptist General Convention of Texas and a life member of the Southwestern Baptist Seminary Advisory Council in Fort Worth; and

WHEREAS, The entire State of Texas will deeply miss this well-loved gentleman and outstanding public servant; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 69th Legislature, pay tribute to the remarkable life of service of Marshall Formby and extend deepest sympathy to his beloved wife, Sharleen Formby; his son, David Formby of Plainview; his daughter, Frances Seales of Lubbock; his nephew, Clint Formby of Hereford; and his granddaughter; and, be it further

RESOLVED, That copies of this Resolution be prepared for the members of Senator Marshall Formby's family, and that when the Senate adjourns this day, it do so in his memory.

SARPALIUS
HOWARD

The resolution was read.

On motion of Senator Brooks and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Sarpalius and by unanimous consent, the resolution was considered immediately and was adopted by a rising vote of the Senate.